

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**In Case No. 2005-0641, Sean Croft v. Commissioner, New Hampshire Department of Corrections, the court on September 21, 2006, issued the following order:**

Sean Croft appeals the denial of his petition for writ of habeas corpus. He argues that the sentencing court imposed an illegal sentence because it did not intend to impose an extended term but rather mistakenly applied an inapplicable sentencing provision. We affirm.

A petitioner for writ of habeas corpus bears the burden of proving entitlement to relief. State v. Collins, 133 N.H. 609, 612 (1990). In this case, the petitioner concedes that the State notified him prior to trial that it intended to seek an extended term of imprisonment and that a sentencing judge is not required to use the words “extended term” in imposing a sentence. Instead, he contends that because the sentence imposed was identical to the penalty enacted after he committed the underlying offense, the trial court must have erred. We disagree. The sentence imposed was identical to the extended term imposed at the same time for the other offense for which he was convicted; both sentences were less than the maximum extended term sought by the State. Because the petitioner failed to satisfy his burden, we affirm.

Affirmed.

DALIANIS, GALWAY and HICKS, JJ., concurred.

**Eileen Fox,  
Clerk**